

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, NOVEMBER 6, 2007

The Council of the City of San José convened in regular session at 9:00 a.m. in the Council Chambers at City Hall.

Present: Council Members - Campos, Chirco, Chu, Constant, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:01 a.m. to a Closed Session in Room W133, (A) Public Employee Performance Evaluation Pursuant to Government Code Section 54957: Title: Executive Director, Redevelopment Agency; Name: Harry Mavrogenes. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) In Re Wysuph; (2) Palmer, et al. v. City of San José, et al.; (3) Miller v. City of San José. (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager Designee Alex Gurza; Employee Organizations: (1) Association of Building, Mechanical and Electrical Inspectors; (2) Association of Maintenance Supervisory Personnel.

By unanimous consent, Council recessed from the Closed Session at 10:25 a.m. and reconvened at 1:30 p.m. in the Council Chambers.

Present: Council Members - Campos, Chirco, Chu, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - Constant. (Excused)

INVOCATION

Chaplain Don Owndy presented the Invocation in honor of Veteran's Day. (District 10)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Council Member Liccardo and carried unanimously, the Orders of the Day and the Amended Agenda were approved, Item 2.19 was dropped and Item 3.1 was deferred to November 20, 2007. (10-0-1. Absent: Constant.)

CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Liliana Vera for her tireless dedication to the Tully/Senter community and for truly embodying the idea of community spirit. (Nguyen)**
(Deferred from 10/16/07 – Item 1.6)

Action: Deferred.

- 1.5 Presentation of a commendation to the KFOX Weather Fox students of Ben Painter Elementary School for their compassionate projects for the troops overseas and their outstanding academic achievements. (Cortese/Campos)**
(Rules Committee referral 10/31/07)

Action: Mayor Reed, Vice Mayor Cortese and Council Member Campos recognized and commended the KFOX Weather Fox students of Ben Painter Elementary School for their compassionate projects for the troops overseas and their outstanding academic achievements.

- 1.2 Presentation of commendations to District 9 Stars: Kirk Senior Program Advisory Council, Virginia Holtz, Go Green Schools: Branham High School and Leitz Elementary School and Andre Gong-Sue of the Cambrian Business Association. (Chirco)**

Action: Mayor Reed and Council Member Chirco recognized and commended the District 9 Stars, Kirk Senior Program Advisory Council, and Virginia Holtz.

- 1.3 Presentation of a commendation to James Harding and Heidi Tzortzis, for bringing the American Orff-Schulwerk's 2007 National Conference to San José and for providing an opportunity to support the purposes and practices of music education and encouraging participation from teachers, students and all citizens. (Williams/Economic Development)**

Action: Mayor Reed and Council Member Williams recognized and commended James Harding and Heidi Tzortzis for their outstanding dedication and commitment to City of San José.

1.6 Presentation of a commendation to Frank Carbone and family for their spirit, commitment and outstanding patriotism through their service in the United States Navy during World War II. (Pyle)
(Rules Committee referral 10/31/07)

Action: Mayor Reed and Council Member Pyle recognized and commended Frank Carbone and family for their spirit, commitment and outstanding patriotism through their service in the United States Navy during World War II.

CONSENT CALENDAR

Upon motion by Council Member Pyle, seconded by Council Member Williams and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (10-0-1. Absent: Constant.)

2.1 Approval of Minutes.

- (a) **Regular Minutes of August 21, 2007**
 - (b) **Joint City Council/Redevelopment Agency/County Board of Supervisors Minutes of August 23, 2007**
 - (c) **Regular Minutes of August 28, 2007**
- [Deferred from 10/30/07 – Item 2.1(a)-(c)]**

Documents Filed: (1) The Regular Minutes dated August 21, 2007 and August 28, 2007. (2) The Joint City Council/Redevelopment Agency/County Board of Supervisors Minutes dated August 23, 2007.

Action: The Minutes were approved. (10-0-1. Absent: Constant.)

2.2 Final adoption of ordinances.

- (a) **ORD. NO. 28159 – Amending Sections 9.44.022, 9.44.030, and 9.44.040 of Chapter 9.44 of Title 9 of the San José Municipal Code to prohibit smoking in parks, community centers and libraries.**

Documents Filed: Proof of Publication of the title of Ordinance No. 28125 executed on October 30, 2007, submitted by the City Clerk.

Action: Ordinance No. 28159 was adopted. (10-0-1. Absent: Constant.) (First Reading: 10-1. Noes: Constant.)

2.3 Adoption of a resolution authorizing the City Manager to negotiate and execute new and amended hangar and ramp lease agreements with air cargo airlines currently operating at Mineta San José International Airport, with month-to-month terms effective December 1, 2007 through June 30, 2012 and annual income to the City of approximately \$240,000. CEQA: Resolution Nos. 67380 and 71451, File Nos. PP07-203, PP07-204, PP07-214 and PP07-215. (Airport)

2.3 (Cont'd.)

Documents Filed: Memorandum from Director of Aviation William Sherry, dated October 15, 2007, recommending adoption of a resolution.

Action: [Resolution No. 74084](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute New and Amended Hangar and Ramp Lease Agreements with Air Cargo Airlines currently Operating at the Norman Y. Mineta San José International Airport with Month to Month Terms Effective December 1, 2007 through June 30, 2012 with Annual Income to the City of Approximately \$240,000", was adopted. (10-0-1. Absent: Constant.)

2.4 **Adoption of a resolution authorizing the City Manager to apply for a grant to the Santa Clara Valley Transportation Authority in the amount of \$527,000 to provide funding to assist in the upgrade of the Airport's Compressed Natural Gas fueling station, to accept the grant if awarded, and to execute all related documents. CEQA: Resolution Nos. 67380 and 71451, File No. PP07-208. (Airport)**

Documents Filed: Memorandum from Director of Aviation William Sherry, dated October 9, 2007, recommending adoption of a resolution.

Action: [Resolution No. 74085](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute and Submit an Application to the Santa Clara Valley Transportation Authority for a Grant to Assist in the Funding of the Airport's Compressed Natural Gas Fueling Station in an Amount Not to Exceed \$527,000, to Accept the Grant if Awarded and to Execute all Related Documents", was adopted. (10-0-1. Absent: Constant.)

2.5 **Request for an excused absence for Council Member Constant from the Regular Meeting of the Community and Economic Development Committee on October 9, 2007 due to Authorized City Business. (Constant) (Rules Committee referral 10/24/07)**

Documents Filed: Memorandum from Council Member Constant, dated October 11, 2007, requesting an absence due to authorized City business.

Action: The absence was excused. (10-0-1. Absent: Constant.)

2.6 **Approval of an amendment to a grant agreement between the City of San José and ZeroOne – the Art and Technology Network to increase the amount of the grant by \$100,000 to support marketing costs for *OISJ: A Global Festival of Art on the Edge*, to be conducted in June 2008 in San José, for a total grant amount not to exceed \$200,000. CEQA: Not a Project. (Economic Development)**

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated October 15, 2007, recommending approval of an amendment to a grant agreement.

2.6 (Cont'd.)

Council Member Chu pulled Item 2.6 for clarification.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, the amendment to a grant agreement between the City of San José and ZeroOne – the Art and Technology Network to increase the amount of the grant by \$100,000 to support marketing costs for *OISJ: A Global Festival of Art on the Edge*, to be conducted in June 2008 in San José, for a total grant amount not to exceed \$200,000 was approved. (10-0-1. Absent: Constant.)

2.7 Adoption of a resolution:

- (a) **Authorizing the City Manager to submit an application for local assistance funds of up to \$750,000 from the State of California Integrated Waste Management Board under the Solid Waste Disposal and Co-disposal Site Cleanup Program - Matching Grants to Public Entities to Abate Solid Waste Disposal Sites to be used for the Martin Park Landfill Interceptor Trench and Vapor Barrier project.**

- (b) **Authorizing the City Manager to accept any grant funds and to negotiate and execute all documents related to the grant funding agreement.**

CEQA: Not a Project. Council District 3. SNI: Five Wounds-Brookwood Terrace. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated October 15, 2007, recommending adoption of a resolution.

Action: [Resolution No. 74086](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Submit an Application for Local Assistance Funds of up to \$750,000 from the State of California Integrated Waste Management Board Under the Solid Waste Disposal and Co-disposal Site Cleanup Program, Matching Grants to Public Entities to Abate Solid Waste Disposal Sites, to be Used for the Martin Park Landfill Interceptor Trench and Vapor Barrier Project, To Accept the Grant if Awarded and to Execute all Related Documents”, was adopted. (10-0-1. Absent: Constant.)

2.8 Adoption of a resolution setting a public hearing for January 15, 2008 at 1:30 p.m. for the approval of the report of the Director of Finance on the cost of sidewalk repairs liens. CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated October 15, 2007, recommending adoption of a resolution.

Action: [Resolution No. 74087](#), entitled: “A Resolution of the Council of the City of San José Setting a Public Hearing for the Approval of a Report of the Director of Finance on the Cost of Unpaid Sidewalk Repairs for January 15, 2008”, was adopted. (10-0-1. Absent: Constant.)

- 2.9 Acceptance of the quarterly report on contract activity for goods and services having a value between \$100,000 and Council Appointees' contract approval authority that were entered into and executed by Council Appointees between April 12, 2007 and June 30, 2007. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated October 19, 2007, recommending acceptance of the report.

Action: The quarterly report on contract activity for goods and services having a value between \$100,000 and Council Appointees' contract approval authority that were entered into and executed by Council Appointees between April 12, 2007 and June 30, 2007 was accepted. (10-0-1. Absent: Constant.)

- 2.10 Adoption of a resolution initiating proceedings and setting a public hearing on December 4, 2007 at 7:00 p.m. for the reorganization/annexation of the territory designated as Riverside No. 51 which involves the annexations to the City of San José of approximately 3.4 gross acre County pocket consisting of an approximately 1800 foot long portion of Santa Teresa Boulevard right-of-way, 1100 feet southeast of Bayliss Drive, and detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service. (No owners). CEQA: Resolution No. 65459. Council District 2. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated October 15, 2007, recommending setting a public hearing and adoption of a resolution.

Action: [Resolution No. 74088](#), entitled: "A Resolution of the Council of the City of San José Initiating Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Riverside No. 51, Described More Particularly Herein and Setting the Date, Time and Place for Consideration of Such Reorganization", was adopted. (10-0-1. Absent: Constant.)

- 2.11 Adoption of a resolution initiating proceedings and setting a public hearing on December 4, 2007 at 7:00 p.m. for the reorganization/annexation of the territory designated as McKinley No. 110 which involves the reorganization/annexation to the City of San José of approximately 3.5 gross acre County pocket consisting of one parcel on the northwest side of Summerside Drive between Warfield Way and Galveston Avenue, and detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service. (Eugene D and Joann L Della Maggiore, Owner). CEQA: Resolution No. 65459. Council District 7. SNI: Tully/Senter. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated October 15, 2007, recommending setting a public hearing and adoption of a resolution.

2.11 (Cont'd.)

Action: [Resolution No. 74089](#), entitled: "A Resolution of the Council of the City of San José Initiating the Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as McKinley No. 110, Described More Particularly Herein and Setting the Date, Time and Place for Consideration of Such Reorganization", was adopted. (10-0-1. Absent: Constant.)

2.12 **Adoption of a resolution initiating proceedings and setting a public hearing on December 4, 2007 at 7:00 p.m. for the reorganization/annexation of the territory designated as Hillview No. 73 which involves the reorganization/annexation to the City of San José of approximately 8.55 gross acre County pocket consisting of 4 parcels on both sides of Mount Pleasant Road, east of Westview Drive, and detachment of the same from the appropriate special districts including Central Fire Protection and Area No. 01 (Library Services) County Service. (Multiple Owners). CEQA: Resolution No. 65459. Council District 8. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated October 15, 2007, recommending setting a public hearing and adoption of a resolution.

Action: [Resolution No. 74090](#), entitled: "A Resolution of the Council of the City of San José Initiating the Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Hillview No. 73, Described More Particularly Herein and Setting the Date, Time and Place for Consideration of Such Reorganization", was adopted. (10-0-1. Absent: Constant.)

2.13 (a) **Approval of an increase in the construction contingency for the Fire Station Nos. 12 and 17 Relocation projects in the amount of \$170,000 for a total construction contingency authorization of \$510,000.** (b) **Approval of the second amendment to the consultant agreement with Banducci Associates Architects to increase the agreement compensation by the amount of \$23,000 from \$346,555 to \$369,555 for the Fire Station No. 17 Relocation project.**

CEQA: Mitigated Negative Declaration, PP05-071 and Exempt, File No. PP05-275. Council Districts 9 and 10. (Public Works/Fire)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Fire Chief Darryl Von Raesfeld, dated October 15, 2007, recommending approval of an increase in the construction contingency and approval of a second amendment to the consultant agreement.

2.13 (Cont'd.)

Action: The increase in the construction contingency for the Fire Station Nos. 12 and 17 Relocation projects in the amount of \$170,000 for a total construction contingency authorization of \$510,000 and the second amendment to the consultant agreement with Banducci Associates Architects to increase the agreement compensation by the amount of \$23,000 from \$346,555 to \$369,555 for the Fire Station No. 17 Relocation project were approved. (10-0-1. Absent: Constant.)

- 2.14 (a) **Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for 2007-2008:**
- (1) **Increase the estimate for Earned Revenue by \$936,000.**
 - (2) **Increase the appropriation to the Department of Planning, Building and Code Enforcement for the Sidewalk Café Permits project (PSM 459, Amendment #1) in the amount of \$50,000.**
 - (3) **Increase the appropriation to the Department of Public Works for the Keyes Street/Greater Gardner Pedestrian Streetlight project (PSM 478, Amendment #1) in the amount of \$779,000.**
 - (4) **Establish an appropriation to the Department of Transportation for the Downtown Curb Ramp Construction project (PSM 502) in the amount of \$6,000.**
 - (5) **Establish an appropriation to the Department of Transportation for the Washington Neighborhood Alleyway C3 Construction project (PSM 503) in the amount of \$21,000.**
 - (6) **Establish an appropriation to the Department of Public Works for the Department of Public Works Real Estate Services project (PSM #504) in the amount of \$80,000.**
- (b) **Adoption of resolutions making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the:**
- (1) **Curb Ramp Construction project as more specifically described in the memorandum from the Redevelopment Agency dated August 29, 2007;**
- (b) **Adoption of resolutions making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the:**
- (2) **Washington Neighborhood Alleyway C3 Construction project as more specifically described in the memorandum from the Redevelopment Agency, dated August 2, 2007.**

CEQA: Exempt, File Nos. PP07-207, PP05-212 and PP06-205. (Public Works/Planning, Building and Code Enforcement/Transportation/City Manager's Office)

2.14 (Cont'd.)

Documents Filed: Memorandum from Director of Public Works Katy Allen, Director of Planning, Building and Code Enforcement Joseph Horwedel, Director of Transportation James Helmer and Budget Director Larry Lisenbee, dated October 15, 2007, recommending adoption of appropriation ordinance and funding sources resolution amendments and resolutions.

Action: Ordinance No. 28163, entitled: "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Sidewalk Café Permits Project, Keyes Street/Greater Gardner Pedestrian Streetlight Project, Downtown Curb Ramp Construction Project, Washington Neighborhood Alleyway C3 Construction Project and the Department of Public Works Real Estate Services; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption"; Resolution No. 74091, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73862 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2007-2008 to Adjust Revenues in the Redevelopment Capital Projects Fund"; Resolution No. 74092, entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Strong Neighborhoods Initiative Redevelopment Project Area" and Resolution No. 74093, entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Park Center Plaza Redevelopment Project Area", were adopted. (10-0-1. Absent: Constant.)

- 2.15 Approval of travel by Council Member Chu to New Orleans, LA on November 12 – 18, 2007 to (1) participate in the National League of Cities Congress of Cities & Exposition, (2) as designated by the City Council, be the Voting Delegate at the National League of Cities' Annual Business Meeting, and (3) accept the Playful City USA National Award on behalf of the City of San José. Source of Funds: Mayor/Council Travel Fund. (Chu)
(Rules Committee referral 10/31/07)**

Documents Filed: Memorandum from Council Member Chu, dated October 23, 2007, requesting approval of travel.

Action: The travel request was approved. (10-0-1. Absent: Constant.)

- 2.16 Request for an excused absence for Council Member Chu from the Study Session on November 13, 2007 due to Authorized City Business: National League of Cities Congress of Cities in New Orleans, LA. (Chu)
(Rules Committee referral 10/31/07)**

Documents Filed: Memorandum from Council Member Chu, dated October 25, 2007, requesting an absence due to authorized City business.

Action: The absence was excused. (10-0-1. Absent: Constant.)

- 2.17 Request for excused absences for Council Member Constant.**
(a) Request for an excused absence from the Executive Session, City Council and Evening City Council meetings on November 6, 2007 due to Family Emergency.
(b) Request for an excused absence from the Rules and Open Government meeting on November 7, 2007 due to Family Emergency.
(Constant)
(Rules Committee referral 10/31/07)

Documents Filed: Memoranda from Council Member Constant, both dated October 25, 2007, requesting absences due to a family emergency.

Action: The absences were excused. (10-0-1. Absent: Constant.)

- 2.18 Request for an excused absence for Vice Mayor Cortese from the Regular Meeting of the Rules and Open Government Committee on October 24, 2007 due to Authorized City Business: District 8 Meeting. (Cortese)**
(Rules Committee referral 10/31/07)

Documents Filed: Memorandum from Vice Mayor Cortese dated October 30, 2007, requesting an absence due to authorized City business.

Action: The absence was excused. (10-0-1. Absent: Constant.)

- 2.19 As recommended by the Rules and Open Government Committee on October 31, 2007, adopt a support position on HR 1851 (Waters) and HR 1852 (Frank). (City Clerk)**
(Rules Committee referral 10/31/07)

Action: Dropped per Orders of the Day.

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

- 3.1 Report of the Rules and Open Government Committee – October 17, 2007**
Mayor Reed, Chair

Action: Deferred to November 20, 2007 per Orders of the Day.

- 3.3 Continue Administrative Hearing on and adoption of a resolution approving staff's recommendation for a final adjustment to the reimbursement amount from \$548,268 to \$263,834 (a reduction of \$284,434), which incorporates a greater reduction than the \$341,349 total previously recommended by staff on September 18, 2007. CEQA: Not a Project. Council District 4. (Public Works/Planning, Building & Code Enforcement)**
(Continued from 9/18/07 – Item 4.2)

3.3 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen and Director of Planning, Building and Code Enforcement Joseph Horwedel, dated October 15, 2007, recommending approval of the Staff recommendation for a final adjustment to the reimbursement amount. (2) Supplemental memorandum from Director of Public Works Katy Allen and Director of Planning, Building and Code Enforcement Joseph Horwedel dated October 29, 2007, providing additional information from a follow-up meeting with the Appellants.

As part of the Administrative Hearing, disclosures were made by Council Member Chu.

Mayor Reed opened the public hearing. Rogelio Ruiz, the Appellant, described the project. Bonnie Bamburg was also present to support the appeal and respond to questions. Mayor Reed closed the public hearing.

Director of Public Works Katy Allen summarized the Staff recommendations and responded to Council questions.

Action: Upon motion by Council Member Chu, seconded by Council Member Chirco and carried unanimously, Resolution No. 74094 was adopted. (9-0-2. Absent: Constant, Pyle.)

3.4 **Approval of an ordinance amending Section 3.36.020.3 of Chapter 36 of Title 3 of the San José Municipal Code to include Anti-Terrorist Training pay in compensation for purposes of calculation of benefits for members in the Police and Fire Department Retirement Plan who are represented by the International Association of Fire Fighters, Local 230. CEQA: Not a Project. (City Manager's Office)**

Documents Filed: Memorandum from Director of Employee Relations Alex Gurza, dated October 19, 2007, recommending approval of an ordinance.

Action: Upon motion by Council Member Williams, seconded by Council Member Chu and carried unanimously, Ordinance No. 28164, entitled: "An Ordinance of the City of San José Amending Section 3.36.020.3 of Chapter 3.36 of Title 3 of the Municipal Code to Include Incentive Pay for Fire Anti-Terrorist Training in Compensation for Purposes of Calculation of Benefits in the Police and Fire Department Retirement Plan", was passed for publication. (10-0-1. Absent: Constant.)

3.5 **Approval of an agreement with Alliance Resource Consulting LLC for Auditor Search Services, in an amount not to exceed \$26,500. (Mayor) (Rules Committee referral 10/31/07)**

Documents Filed: Memorandum from Mayor Reed, dated October 24, 2007, recommending approval of an agreement.

3.5 (Cont'd.)

Public Comments: William Garbett objected to the large amount of money to be spent.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, the agreement with Alliance Resource Consulting LLC for Auditor Search Services, in an amount not to exceed \$26,500 was approved. (10-0-1. Absent: Constant.)

3.6 **As recommended by the Rules and Open Government Committee on October 31, 2007, adopt a support position for Federal Housing Legislation: HR1851 (Waters) – Section 8 Voucher Reform Act of 2007 and HR1852 (Frank) – expanding Homeownership Act of 2007. (Housing)** **[Rules Committee referral 10/31/07 – Item (c)(2)(a)]**

Documents Filed: Memorandum from City Clerk Lee Price, dated November 1, 2007, transmitting the recommendation of the Rules and Open Government Committee.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, the position of support for Federal Housing Legislation: HR1851 (Waters), Section 8 Voucher Reform Act of 2007 and HR1852 (Frank), expanding Homeownership Act of 2007 was accepted. (10-0-1. Absent: Constant.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee – October 22, 2007 Council Member Pyle, Chair

Documents Filed: The Community and Economic Development Committee Report dated October 22, 2007

(a) Review of Committee Work Plan

The Committee accepted the Staff report.

(b) Downtown Obstruction/Building Heights

Deferred to January 2008.

(c) General Plan Update. Attachment: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated October 4, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

4.1 Report of the Community & Economic Development Committee – October 22, 2007 Council Member Pyle, Chair (Cont'd.)

- (d) Review of the Relevant Legislation Guiding Principles for 2008. Attachment: Memorandum from Director of Intergovernmental Relations Betsy Shotwell, dated October 4, 2007, transmitting the draft report.

The final draft will be forwarded to the Rules and Open Government Committee and the City Council for adoption by the end of the year.

- (e) Sign Ordinance Update - Deferred to November 2007.
- (f) HP Pavilion Improvements - Deferred to November 2007.
- (g) Assessing Performance: An Analytical Framework for the San José McEnery Convention Center. Attachment: Memorandum from Interim City Auditor Steven Hendrickson, dated October 4, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (h) Update on Soccer Stadium, Airport West and iStar Site Negotiations. Attachment: Memorandum from Chief Development Officer Paul Krutko, dated October 12, 2007, recommending acceptance of the report.

The Committee accepted the Staff report. See Item 4.2 for Council action taken.

- (i) Process Report and Timeline Update for Adoption of the 2007 California Building Standards, CCR Title 24, Parts 2-6, 8-10, and 12 and California Fire Code. Attachments: Memoranda from Fire Chief Darryl Von Raesfeld and Director of Planning, Building and Code Enforcement Joseph Horwedel, both dated October 8, 2007, recommending acceptance of the report.

The Committee accepted the Staff report. See Items 4.4 and 4.5 for Council action taken.

- (j) Oral Petitions - None were presented.
- (k) Adjournment - The meeting was adjourned at 3:48 p.m.

Action: Upon motion by Council Member Pyle, seconded by Council Member Campos and carried unanimously, the Community and Economic Development Committee Report and the actions of October 22, 2007 were accepted. (10-0-1. Absent: Constant.)

- 4.2 (a) **Acceptance of the staff report regarding efforts to bring a Professional, Major League Soccer Program Back to San José, a report on a proposed change in land use of a 74-acre parcel (known as the iStar site) in Edenvale from industrial and retail use to residential use and a report on proposed development of the City-owned 75-acre Airport West Property for economic development purposes.**
- (b) **Direction to staff to continue to work with the developers (as described below) for a period extending no later than June 30, 2008, so that proposals for the development of a stadium for Major League Soccer in San José, proposals for the development of the iStar property for residential uses and proposals for the development of the Airport West Property for economic development purposes can come forward for consideration by City Council.**
- (c) **Direction to staff to continue to work with the developers so that applications and agreements can be brought forward for Council consideration related to a stadium project at such time that those items and all related actions are ready for Council review. Council acknowledges and directs that a separate General Plan and public hearings pertaining to related land use applications may be required for these various development proposals.**

CEQA: Not a Project. (Economic Development)

[Community and Economic Development referral 10/22/07 – Item (h)]

Documents Filed: (1) Memorandum from Mayor Reed and Council Member Pyle, dated November 2, 2007, recommending approval of Staff recommendations (a)-(c) and additional conditions. (2) Memorandum from Agenda Services Manager Nadine Nader, transmitting the report and recommendations of the Community and Economic Development Committee.

Chief Development Officer Paul Krutko presented the staff report and responded to Council questions.

Council Member Campos requested an informational memorandum clarifying what triggers the voter approval requirement in the Municipal Code for funding sports facility construction.

Motion: Council Member Pyle moved approval of the memorandum she cosigned with Mayor Reed with conditions and the Staff recommendations as described. Council Member Liccardo seconded the motion.

Public Comments: Speaking in support to the Staff recommendations were Pat Dando (San José Silicon Valley Chamber of Commerce), Don Gagliardi (Soccer Silicon Valley) and Ross Signorino. William Garbett objected to the Staff recommendations. R.J. Castro pointed out that this site would be a good project for housing.

4.2 (Cont'd.)

Action: On a call for the question, the motion carried unanimously, the memorandum from Mayor Reed and Council Member Pyle was approved including the following conditions: (1) A status report of the negotiations and timing of the environmental review be presented to the Community and Economic Development Committee in March 2008. (2) An update to be given to City Council at the Annual General Plan Review Hearing of the status of all development applications in the pipeline that may or may not be ready for the 2008 annual hearing, including the status of this particular project; the Staff recommendations were accepted as described above and the City Attorney requested to provide an information memorandum clarifying what triggers the voter approval requirement in the Municipal Code for funding sports facility construction. (10-0-1. Absent: Constant.)

4.3 (a) Adoption of a resolution:

- (1) **Authorizing the Director of Housing to accept a \$1,000,000 CalHome Program grant from the California Department of Housing and Community Development (HCD) to fund the rehabilitation of homes owned by lower-income residents within existing SNI areas (\$500,000) and fund a second mortgage program for low-income, first-time homebuyers Citywide (\$500,000).**
- (2) **Authorizing the Director of Housing to execute all necessary documents to implement the two programs.**

(b) Adoption of an appropriation ordinance and funding source resolution amendments in the Multi-Source Housing Fund (Fund 448):

- (1) **Increase the CalHome Program appropriation by \$1,000,000.**
- (2) **Increase the estimate for Grant Revenue in the amount of \$1,000,000.**

CEQA: Not a Project. (Housing/City Manager's Office)

Documents Filed: Memorandum from Director of Housing Leslye Krutko and Budget Director Larry Lisenbee, dated October 15, 2007, recommending adoption of a resolution and appropriation ordinance and funding sources resolution amendments.

Action: Upon motion by Council Member Williams, seconded by Council Member Chirco and carried unanimously, [Resolution No. 74095](#), entitled: "A Resolution of the Council of the City of San José (1) Authorizing the Director of Housing to Accept a \$1,000,000 CALHOME Program Grant from the California Department of Housing and Community Development to Fund the Rehabilitation of Homes Owned by Lower Income Residents Within Existing SNI Areas (\$500,000) and Fund a Second Mortgage Homebuyers Citywide (\$500,000); (2) Authorizing the Director of Housing to Negotiate and Execute all Necessary Documents to Implement the Two Programs"; [Ordinance No. 28165](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Multi Source Housing Fund for the CALHOME Program; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and [Resolution No. 74096](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73862 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2007-2008 to Adjust Revenues in the Multi Source Housing Fund", were adopted. (9-0-2. Absent: Chu, Constant.)

Note: Items 4.4 and 4.5 were heard together.

4.4 Approval of an Ordinance to amend Title 24 of the San José Municipal Code as follows:

- (a) Adoption of the 2007 editions of the California Building Code, California Electrical Code, California Mechanical Code, California Plumbing Code, California Historical Building Code, California Existing Building Code and the International Existing Building Code Appendix Chapters A2 and A3.**
- (b) Adoption of local amendments regarding certain structural design requirements, compliance with FEMA regulations, fire sprinkler regulations, and other building and plumbing requirements.**

CEQA: Exempt, File No. PP07-221. (Planning, Building and Code Enforcement)

[Community and Economic Development referral 10/22/07 – Item (i)]

[Public Safety, Finance and Strategic support Committee referral 10/18/07 – Item (9)(a)]

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated October 22, 2007, recommending approval of an ordinance.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, [Ordinance No. 28166](#), entitled: “An Ordinance of the City of San José Amending Title 24 of the San José Municipal Code to Adopt the 2007 California Building, Plumbing, Mechanical, Electrical Codes, California Existing Building Code, California Historical Building Code and 2006 International Existing Building Code with Certain Exceptions, Modifications and Additions”, was passed for publication. (9-0-2. Absent: Campos, Constant.)

4.5 (a) Approval of an ordinance amending Chapter 17.12 of the San José Municipal Code to:

- (1) Adopt the 2007 California Fire Code, with amendments related to fire flow, sprinkler system standards, fire alarm systems, breathing air replenishment and public radio coverage, access control devices, large battery charging systems, and continuous gas detection systems, based on finding of local climatic, geologic and topographic conditions.**
- (2) Adopt other amendments to Chapter 17.12 to maintain existing levels of fire safety and regulatory authority.**
- (b) Direct staff to conduct a thorough review of the existing Hazardous Materials Storage Ordinance (San José Municipal Code Chapter 17.68) and of the existing Toxic Gas Ordinance (San José Municipal Code Chapter 17.78), and return to Council with recommendations for any necessary revisions by June 2009.**

CEQA: Exempt, File No. PP07-239. (Fire)

[Community and Economic Development referral 10/22/07 – Item (i)]

[Public Safety, Finance and Strategic Support Committee referral 10/18/07 – Item (9)(b)]

4.5 (Cont'd.)

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated October 31, 2007, providing information on the proposed ordinance related to adoption of the 2007 California Fire Code. (2) Memorandum from Fire Chief Darryl Von Raesfeld, dated October 15, 2007, recommending approval of an ordinance and further direction to Staff. (3) Supplemental memorandum from Fire Chief Darryl Von Raesfeld, dated November 1, 2007, transmitting additional clarifying information about the 2007 California Fire Code.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, [Ordinance No. 28167](#), entitled: "An Ordinance of the City of San José Amending Chapter 17.12 of the San José Municipal Code to Adopt the 2007 California Fire Code with Local Amendments Relating to Fire Flow, Sprinkler and Fire Alarm Systems and Standards, Access Control Devices, Breathing Air Replenishment and Public Radio Coverage, Large Battery Charging Systems and Continuous Gas Detection Systems and to Maintain Existing of Fire Protection and Regulatory Authority", was passed for publication; Staff was directed to conduct a thorough review of the existing Hazardous Materials Storage Ordinance and of the existing Toxic Gas Ordinance and return to Council with recommendations for any necessary revisions by June 2009 and Staff was requested to provide periodic updates on the status of issues relating to the firefighter breathing air replenishment system requirement for high rise buildings. (9-0-2. Absent: Campos, Constant.)

NEIGHBORHOOD SERVICES

- 5.4 (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a new agreement with the Baseball Acquisition Company, Inc. (BAC) to:**
- (1) A term from the date of execution through September 30, 2013.**
 - (2) Transfer to San José Arena Authority the oversight role for stadium operations, including contract administration, facility management and operation, Capital budget preparation, and community program development.**
 - (3) Allow the BAC to solicit interested parties in potential naming of San José Municipal Stadium and develop draft business terms, subject to review and approval of City Council.**
 - (4) Create a San José Municipal Stadium Capital Fund from all funds generated by naming rights activity by the BAC and by other annual fees paid by the BAC to the City plus an initial \$200,000 contribution from the City.**
 - (5) Authorize the City Manager to negotiate repayment terms to BAC for up to \$500,000 in the aggregate– which amounts would be paid to BAC upon termination of the Agreement as partial reimbursement to BAC for the cost of long term improvements BAC will make to the facility at its sole cost.**

- 5.4 (a) (6) Allow BAC to make certain capital repairs or replacements to the facility without prior approval, subject to conditions including that work does not require Department of Public Works review and is for an amount less than \$25,000.
- (7) Allow for the development of a new community ticket distribution program for tickets to professional baseball games.
- (b) Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the Restated Agreement between the City of San José and the San José Arena Authority dated September 26, 2006, to designate management oversight of Municipal Stadium to the Authority and to amend services provided by the City to the Authority.
- (c) Adoption of the following 2007-2008 Appropriation Ordinance amendments in the Construction and Conveyance Tax Fund: City-Wide Parks Purposes (Fund 391):
- (1) Establish a transfer to the San José Municipal Stadium Capital Fund in the amount of \$200,000; and,
- (2) Decrease the Strategic Capital Replacement and Maintenance Needs appropriation in the amount of \$200,000.
- (d) Establish a new San José Municipal Stadium Capital Fund and adopt the following 2007-2008 Appropriation Ordinance and Funding Sources Resolution amendments in the San José Municipal Stadium Capital Fund:
- (1) Establish an estimate for Transfers in the amount of \$200,000; and,
- (2) Establish a Capital Enhancements appropriation to the Parks, Recreation, and Neighborhood Services Department in the amount of \$200,000.

CEQA: Exempt, File No. PP07-217. Council District 7. (Parks, Recreation and Neighborhood Services/City Manager's Office)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso and Budget Director Larry Lisenbee, dated October 15, 2007, recommending adoption of a resolutions and appropriation ordinance and funding sources resolution amendments.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, [Resolution No. 74097](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a New Agreement Relating to San José Municipal Stadium with The Basement Acquisition Company, Inc."; [Resolution No. 74098](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment to the Restated Agreement Between the City of San José and the San José Arena Authority to Designate Management Oversight of the San José Municipal Stadium to the Authority and To Amend Services Provided by the City to the Authority"; [Ordinance No. 28168](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Construction and Conveyance Tax Fund: Citywide Parks Purposes for the San José Municipal Stadium Fund; and Providing that This Ordinance

5.4 (Cont'd.)

Shall Become Effective Immediately Upon Adoption”; Ordinance No. 28169, entitled: “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the San José Municipal Stadium Capital Fund for the San José Municipal Stadium Capital Enhancements; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption” and Resolution No. 74099, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 73862 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2007-2008 to Adjust Revenues in the San José Municipal Stadium Capital Fund”, were adopted. (10-0-1. Absent: Constant.)

- 5.5 (a) **Acceptance of the Strong Neighborhoods Initiative (SNI) *Greater Gardner Neighborhood Improvement Plan Amendment* as the renewed community vision for the future of the Greater Gardner SNI Planning Area, and**
(b) **Encourage Greater Gardner area residents, property owners and community members to continue to dedicate their time, energy and resources towards the *Plan* and this Amendment while continuing with their community-building activities.**

CEQA: Resolution No. 71045. The Planning Commission recommends approval (6-0-1). Council Districts 3 and 6. SNI: Greater Gardner. (Planning, Building and Code Enforcement)

Action: See Item 9.2 for Council action taken.

- 5.6 **Approval of an agreement with Anderson Brule Architects, Inc. for consultant services for the Educational Park Branch Library Project, from the date of execution to October 31, 2010, in an amount not to exceed \$1,190,000. CEQA: Not a Project. Council District 4. (Public Works/Library)**

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Library Department Jane Light, dated October 15, 2007, recommending approval of the consultant’s service agreement.

Action: Upon motion by Council Member Chu, seconded by Council Member Campos and carried unanimously, the agreement with Anderson Brule Architects, Inc. for consultant services for the Educational Park Branch Library Project, from the date of execution to October 31, 2010, in an amount not to exceed \$1,190,000 as approved. (10-0-1. Absent: Constant.)

- 5.7 **Approval to reject all bids for the Happy Hollow Park & Zoo – Pedestrian Bridge (Phase IIB) Project, and authorization for the Director of Public Works to re-advertise and re-bid the project. CEQA: Mitigated Negative Declaration, File No. PP05-142. (Public Works/Parks, Recreation and Neighborhood Services)**

5.7 (Cont'd.)

Documents Filed: Memorandum from Director of Public Works Katy Allen and Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated October 25, 2007, recommending rejection of all bids and authorization to readvertise and rebid the project.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the rejection of all bid were approved the Director of Public Works was authorized to readvertise and rebid the project. (9-0-2. Absent: Constant, Williams.)

TRANSPORTATION & AVIATION SERVICES

- 6.2 (a) Discussion and possible action on the recommendations of the T&E Committee to direct staff to bring forward to the City Council a report on the development of a Taxicab Commission.**
- (b) Discussion and possible action regarding airport company taxicab permit allocations.**

CEQA: Not a Project. (Airport/Transportation/Police)

[Transportation and Environment Committee referral 10/01/07 – Item (j)]

(Deferred from 10/16/07 – Item 6.3)

Action: Deferred to November 20, 2007 per Mayor Reed.

PUBLIC SAFETY SERVICES

Note: Items 8.1 and 8.2 were heard together.

8.1 Acceptance of the Independent Police Auditor's 2007 Mid-Year Report. (Independent Police Auditor)

Documents Filed: Memorandum from Independent Police Auditor Barbara Attard, dated October 24, 2007, recommending acceptance of the report.

Independent Police Auditor Barbara Attard provided a brief summary of the Independent Police Auditor's 2007 Mid-Year Report and responded to Council questions.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, Independent Police Auditor's 2007 Mid-Year Report was accepted. (8-0-3. Absent: Constant, Cortese, Liccardo.)

- 8.2 Acceptance of the progress report, as authored by the City Manager and Independent Police Auditor, regarding Council Referral #21 from the June 21, 2007 Special Council Meeting on Various Police Related Reports, which states the following: Council Referral #21 - Direct the City Manager to collaborate with the IPA on a report outlining the status of all the recommendations adopted at the Special Council meeting. This report is to be brought forward in conjunction with the IPA's mid-year report. CEQA: Not a Project. (City Manager's Office/Independent Police Auditor)**

Documents Filed: Memorandum from City Manager Debra Figone and Independent Police Auditor Barbara Attard, dated October 24, 2007, recommending acceptance of the report.

Deputy City Manager Deanna J. Santana summarized the progress report and responded to Council questions.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the progress report was accepted. (8-0-3. Absent: Constant, Cortese, Liccardo.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Joint Council Redevelopment Agency portion of the meeting convened at 4:19 p.m.

- 9.1 Adoption of resolutions by the City Council and Redevelopment Agency Board amending the joint City/Redevelopment Agency Inclusionary Housing Policy ("Policy") to clarify land dedication/valuation requirements in lieu of providing affordable housing units. CEQA: Not a Project. (City Manager's Office/Redevelopment Agency)
(Rules Committee referral 10/24/07)**

Documents Filed: Memorandum from City Manager Debra Figone and Redevelopment Agency Executive Director Harry S. Mavrogenes, dated October 25, 2007, recommending adoption of resolutions.

Public Comments: William Garbett objected to the Staff recommendations.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Chirco and carried unanimously, [Resolution No. 74100](#), entitled: "A Resolution of the Council of the City of San José Amending the Joint City/Redevelopment Agency Inclusionary Housing Policy to Clarify Land Dedication/Valuation Requirements in Lieu of Providing Affordable Housing Units" and [Redevelopment Agency Resolution No. 5796](#) were adopted. (10-0-1. Absent: Constant.)

The Joint Council Redevelopment Agency portion of the meeting adjourned at 4:21 p.m.

OPEN FORUM

- (1) William Garbett requested help with a Public Records Act Request.
- (2) Robert Apgar shared personal observations.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 4:25 p.m.

RECESS/RECONVENE

The City Council recessed at 4:25 p.m. from the afternoon Council Session and reconvened at 7:02 p.m. in the Council Chambers, City Hall.

Present: Council Members - Campos, Chirco, Chu, Liccardo, Oliverio, Nguyen, Pyle, Williams; Reed.

Absent: Council Members - Constant, Cortese. (Excused)

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Council Member Oliverio, seconded by Council Member Nguyen, and carried unanimously, the below noted continuances and actions were taken as indicated. (9-0-2. Absent: Constant, Cortese.)

CEREMONIAL ITEMS

1.4 Presentation of a commendation to Art Boudreault for his dedication and outstanding commitment to the Almaden Community. (Pyle)

Action: Mayor Reed and Council Member Pyle recognized and commended Art Boudreault for his dedication and exceptional commitment to the Almaden Community.

1.2 Presentation of commendations to District 9 Stars: Kirk Senior Program Advisory Council, Virginia Holtz, Go Green Schools: Branham High School and Leitz Elementary School and Andre Gong-Sue of the Cambrian Business Association. (Chirco)

Action: Mayor Reed and Council Member Chirco recognized and commended the District 9 Stars, Go Green Schools: Branham High School and Leitz Elementary School and Andre Gong-Sue of the Cambrian Business Association.

PUBLIC HEARINGS ON CONSENT CALENDAR

- 11.1 (a) Consideration of an ordinance rezoning the real property located on the southeast corner of Lincoln Avenue and Nevada Place (1556 Lincoln Avenue) to A(PD) Planned Development Zoning District to allow the subdivision of one lot into two lots, to retain one existing single-family detached residence and allow for the eventual construction of one additional single family detached residence on a 0.26 gross acre site (Annette R Tomasso Trustee, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). PDC06-101 – District 6**

11.1 (a) (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC06-101, dated October 1, 2007, recommending approval of the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated October 15, 2007, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on September 28, 2007, submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Pyle, seconded by Council Member Oliverio and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28170](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southeast Corner of Lincoln Avenue and Nevada Place (1556 Lincoln Avenue) from the R-2 Two Family Residence Zoning District to A(PD) Planned Development Zoning District", was passed for publication. (9-0-2. Absent: Constant, Cortese.)

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

PUBLIC HEARINGS

- 11.2 Consideration of a director initiated rezoning ordinance rezoning an approximately 1.14 gross acre area consisting of one parcel on the south side of Sierra Road, 200 feet east of Varner Court from unincorporated county to R-1-2 Single Family Residence District (Jack Kim and Hester Lau-Kim, Owners). CEQA: Resolution No. 65459 (Related Annexation Penitencia No. 76). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**

C06-105 – District 4

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-105, dated October 17, 2007, recommending approval of the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on October 26, 2007, submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Chu, seconded by Council Member Pyle and carried unanimously, the recommendation of the Planning Director was approved, and [Ordinance No. 28171](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the South Side of Sierra Road, 200 Feet East of Varner Court to R-1-2 Single Family Residence Zoning District”, was passed for publication. (9-0-2. Absent: Constant, Cortese.)

- 11.3 Consideration of a director initiated rezoning ordinance rezoning an approximately 3.49 gross acre area consisting of 13 parcels located on both sides of Woodard Road between Nova Scotia Avenue and Twilight Drive from unincorporated county to R-1-8 Single family Residence District (Multiple Owners). CEQA: Resolution No. 65459 (Related Annexation Parker No. 25). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**

C06-111 – District 9

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-111, dated October 15, 2007, recommending approval of the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on October 26, 2007, submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

11.3 (Cont'd.)

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle and carried unanimously, the recommendation of the Planning Director was approved, and [Ordinance No. 28172](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at Both Sides of Woodard Road Between Nova Scotia Avenue and Twilight Drive to R-1-8 Single Family Residence Zoning District”, was passed for publication. (9-0-2. Absent: Constant, Cortese.)

11.4 Consideration of a director initiated rezoning ordinance rezoning an approximately 0.53 gross acre area consisting of 2 parcels located on the south side of Woodard Road, 300 feet west of Twilight Drive from unincorporated county to R-1-8 Single Family Residence District (Multiple Owners). CEQA: Resolution No. 65459 (Related Annexation Parker No. 26). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. **C06-113 – District 9**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-113, dated October 17, 2007, recommending approval of the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on October 26, 2007, submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle and carried unanimously, the recommendation of the Planning Director was approved, and [Ordinance No. 28173](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the South Side of Woodard Road, 300 Feet West Twilight Drive to R-1-8 Single Family Residence Zoning District”, was passed for publication. (9-0-2. Absent: Constant, Cortese.)

NEIGHBORHOOD SERVICES

5.2 As recommended by the Rules and Open Government Committee on October 3, 2007, direct staff to move forward in negotiating a final price within the available project budget and purchasing the land that is for sale from Union Pacific between the boundary of Los Gatos Creek and Highway 87 that has been identified in the Greenprint for the Willow Glen Spur Trail. (Oliverio) [Rules and Open Government Committee referral 10/03/07 – Item (G)(4)] (Deferred from 10/23/07 – Item 5.2)

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated October 11, 2007, transmitting the recommendation of the Rules and Open Government Committee. (2) Letter from Blanca Alvarado, Supervisor, County of Santa Clara, dated November 2, 2007, regarding the negotiations with Union Pacific Railroad for the Willow Glen Spur Trail.

5.2 (Cont'd.)

Motion: Council Member Oliverio moved approval of his memorandum directing staff to move forward in negotiating a final price within the available project budget and purchasing the land that is for sale from Union Pacific between the boundary of Los Gatos Creek and Highway 87 that has been identified in the Greenprint for the Willow Glen Spur Trail. Council Member Nguyen seconded the motion.

Public Comments: Speaking in support to the Willow Glen Spur Trail were Richard Zappelli, John Kelly, Lawrence Ames, Michael Larocca, Harvey Darnell (Citizens for Livable San José), Helen Chapman, Jack Nadeau, Don Hebard, Garnetta Annable, Raymond Ravaglia, Jean Dresden, Ed Rast and Martin Delson,

Director of Planning, Building and Code Enforcement Joseph Horwedel responded to Council questions.

Action: On a call for the question, the motion carried unanimously, Staff was directed to move forward in negotiating a final price within the available project budget and purchasing the land that is for sale from Union Pacific between the boundary of Los Gatos Creek and Highway 87 that has been identified in the Greenprint for the Willow Glen Spur Trail. (9-0-2. Absent: Constant, Cortese.)

- 5.3 (a) **Acceptance of the *Seven Trees Neighborhood Action Agenda* as the community vision for the future of the Seven Trees neighborhood, and,**
(b) **Encourage the Seven Trees neighborhood residents, property owners and community members to continue to dedicate their time, energy and resources towards the *Action Agenda*, continuing with their community-building activities.**

CEQA: Not a Project. Council District 7. (City Manager's Office)

Documents Filed: (1) Memorandum from Deputy City Manager Mark Linder, dated October 15, 2007, recommending acceptance of the report. (2) Petition of three hundred ninety six signatures in support of the staff recommendations.

Deputy City Manager Mark Linder presented an overview of the Seven Trees Neighborhood Action Agenda and responded to Council questions.

Public Comments: Speaking in support to the Staff recommendations were Catalina Martinez, Rosa Martinez and Isabel Valltierra.

Action: Upon motion by Council Member Nguyen, seconded by Council Member Pyle and carried unanimously, the Seven Trees Neighborhood Action Agenda as the community vision for the future of the Seven Trees neighborhood was accepted. (9-0-2. Absent: Constant, Cortese.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Joint Council Redevelopment Agency portion of the meeting convened at 8:13 p.m.

- 9.2 (a) **Acceptance of the Strong Neighborhoods Initiative (SNI) *Greater Gardner Neighborhood Improvement Plan Amendment* as the renewed community vision for the future of the Greater Gardner SNI Planning Area, and**
- (b) **Encourage Greater Gardner area residents, property owners and community members to continue to dedicate their time, energy and resources towards the *Plan* and this Amendment while continuing with their community-building activities.**

CEQA: Resolution No. 71045. The Planning Commission recommends approval (6-0-1). Council Districts 3 and 6. SNI: Greater Gardner. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from the Planning Commission Secretary Joseph Horwedel, dated October 11, 2007, transmitting the recommendation of the Planning Commission.

Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti provided a summary of the Strong Neighborhoods Initiative Greater Gardner Neighborhood Improvement Plan Amendment.

Public Comments: Speaking in support of the Staff recommendations were Harvey Darnell, Kevin Krissman, Rudy Martinez, Mary Pisa, Kathy Hodak, Debbie Wade and Ed Rast.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Liccardo and carried unanimously, the Strong Neighborhoods Initiative (SNI) Greater Gardner Neighborhood Improvement Plan Amendment as the renewed community vision for the future of the Greater Gardner SNI Planning Area was accepted. (9-0-2. Absent: Constant, Cortese.)

ADJOURNMENT

The Council of the City of San José adjourned at 8:34 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk
smd/11-6-07MIN

Access the video, the agenda and related reports for this meeting by visiting the City's website at <http://www.sanjoseca.gov/clerk/agenda.asp> or <http://www.sanjoseca.gov/clerk/MeetingArchive.asp>

JOINT REDEVELOPMENT AGENCY BOARD

The Joint Redevelopment Agency Board convened at 4:35 p.m. to consider Items 8.1, 8.2 and 8.3 in a Joint Session.

8.1 Recommendations: Adoption of resolutions by:

- (a) **The Redevelopment Agency Board approving a Reimbursement Agreement with SoloPower, Inc., in an amount not to exceed \$715,000, for acquisition of capital equipment to be installed in SoloPower's industrial and manufacturing headquarters facility in the Edenvale Redevelopment Project Area and making certain findings.**
- (b) **The City Council directing the City Manager to have the Office of Economic Development pursue Employment Training Panel Funds, in the amount of \$100,000, to support the workforce development efforts of SoloPower.**

CEQA: Edenvale Redevelopment Project Area Final EIR, Resolution No. 67245, File No. SP07-068. [EDENVALE]

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes and City Manager Debra Figone, dated October 25, 2007, recommending adoption of resolutions.

Public Comments: Homayoun Talieh (SoloPower) spoke in support of the Staff recommendations.

Action: Upon motion by Council Member Williams, seconded by Council Member Chirco and carried unanimously, Redevelopment Agency Resolution No. 5797 and Resolution No. 74101, entitled: "A Resolution of the Council of the City of San José Directing the City Manager to Have the Office of Economic Development Pursue Employment Training Panel Funds in the Amount of \$100,000 to Support the Work Force Development Efforts of SoloPower", were adopted. (10-0-1. Absent: Constant.)

8.2 Adoption of a resolution approving the award of a construction contract to Randazzo Enterprises, Inc., the lowest responsive bidder in the amount of \$186,857, and authorizing a 20% construction contingency in the amount of \$37,371, for a total construction budget not to exceed \$224,228, for the demolition of the Japantown Corporation Yard Buildings. CEQA: Resolution No. 64990, Japantown EIR, File No. PP 07-224. [JAPANTOWN]

Documents Filed: Memorandum from Redevelopment Agency Executive Director Harry S. Mavrogenes and City Manager Debra Figone, dated October 25, 2007, recommending adoption of a resolution.

Public Comments: William Garbett requested that all toxic objects be removed from the property.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, Redevelopment Agency Resolution No. 5798 was adopted. (10-0-1. Absent: Constant.)

- 8.3 (a) Adoption of a resolution by the City Council making certain determinations required by Redevelopment Law, Health and Safety Code Section 33445, for Agency funding of improvements for public and service access and parking for the Guadalupe River Park.**
- (b) Adoption of a resolution by the Redevelopment Agency Board approving the award of a construction contract to Joseph J. Albanese Inc., the low bidder, in the amount of \$789,963; and authorizing a construction contingency in the amount of \$118,494, for construction of a parking lot for the GRP with access from Santa Clara and St. John Streets.**

CEQA: Downtown Strategy 2000 EIR, Resolution No. 72767 and Addendum thereto. File No. PP07-223. [MERGED]

(Deferred from 10/2/07 and 10/16/07- Item 8.2.)

Action: Deferred to December 11, 2007 per Orders of the Day.

The Council of the City of San José and Redevelopment Agency Board adjourned at 4:40 p.m.